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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,311	03/01/2002	Daniel Lee Briley	10992014-1	8556

22879 7590 09/04/2008  
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FORT COLLINS, CO 80527-2400

EXAMINER
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JABR, FADEY S

ART UNIT	PAPER NUMBER
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3628

NOTIFICATION DATE	DELIVERY MODE
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09/04/2008

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/086,311  
Filing Date: March 01, 2002  
Appellant(s): BRILEY, DANIEL LEE

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Julia Church Dierker  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 7 July 2008 appealing from the Office action mailed 4 February 2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,701,304 B2

LEON

3-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 4-11** and **14-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Leon, U.S. Patent No. 6,701,304 B2, hereinafter referred to as Leon.

As per **Claims 1 and 11**, Leon discloses a method for postage label authentication comprising:

- receiving the mail piece (C. 13, lines 18-33);
- scanning the postage evidence for visible marks and non-visible marks to read visible mark information indicated by the visible marks and non-visible mark information indicated by the non-visible marks, wherein the non-visible marks are scanned using an Ultra Violet (UV) light, and wherein the non-visible marks are also detectable by human eye using a UV light (C. 9, lines 14-25, C. 13, lines 18-42); and
- processing the visible mark information and the non-visible mark information to generate postage information for the mail piece (C. 2, lines 21-62, C. 3, lines 4-8, C. 8, line 51 – C. 9, line 25).

Leon fails to *explicitly* disclose that wherein the non-visible marks are also detectable by human eye using a UV light ***for human confirmation of the non-visible marks***. However, Leon discloses the ink can also be invisible to the human eye under white light and become apparent

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only under light of specified wavelength(s) such as UV light (C. 9, lines 14-25). Further, the system of Leon is concerned with detecting the invisible ink in the indicia.

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App & Inter. 1987). Thus, the structural limitation of claims 1 and 11, including UV light is disclosed by Leon as described above. Also, as described above, the functional limitations in claims 1 and 11 do not distinguish the claimed apparatus from the prior art.

As per **Claims 4 and 14**, Leon further discloses processing the non-visible mark information to validate the postage evidence (C. 9, lines 23-25).

As per **Claims 5 and 15**, Leon further discloses wherein the non-visible mark information comprises a key to the visible mark information (C. 11, line 63 – C. 12, line 7, C. 13, lines 13-42, C. 14, lines 19-20).

As per **Claims 6 and 16**, Leon fails to *explicitly* disclose wherein the visible marks and the non-visible marks are printed based on a *checksum* algorithm. However, Leon discloses one or more fields in the indicium can be encoded with a particular encryption algorithm (e.g., DES,

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RSA, or a *comparable algorithm*) or signed using a particular cryptographic or digital signature algorithm (e.g., DSA, RSA, or a *comparable algorithm*), or both (C. 11, line 63 – C. 12, line 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Leon and include comparable algorithms, because it provides the system with a plurality of algorithms to process the postage information.

As per **Claims 7 and 17**, Leon further discloses wherein the visible marks and the non-visible marks comprise a bar code (C. 2, lines 35-46).

As per **Claims 8 and 18**, Leon further discloses wherein the visible marks and the non-visible marks comprise Information Based Indicia (IBI) (C. 7, lines 51-55).

As per **Claims 9 and 19**, Leon further discloses wherein the postage information includes a postage amount (See Figure 4).

As per **Claims 10 and 20**, Leon further discloses wherein the postage information includes a data, an origination address, a destination address, and security information (C. 12, lines 16-67; also see Figure 4).

**(10) Response to Argument**First Issue

Appellant argues that Leon fails to disclose or suggest, "generating postage information for the mail piece". However, Examiner would first like to point out that both the Leon reference and the applicant's invention are concerned with the same issue, preventing postage fraud (Leon: Abstract). Further, Examiner notes that in order for the invention of Leon to work, the information printed onto the label would have to be processed using the visible and non-visible ink. For example, Leon discloses if a particular area of the indicia is defined as including a barcode, that area may be designed to include a one-dimensional barcode, a two-dimensional barcode, cryptographic text, or some other elements...In a specific implementation, a list of available elements is formed for the markets targeted for the device. This list can include information such as a postage amount, graphics, time and date of the indicium creation, creation location, and other pertinent information....Elements in the indicia can be printed using various types of ink including visible and invisible inks, fluorescent and non-fluorescent inks, or any combination thereof. The ink used for some or all elements can be visible to the human eye. The ink can also be invisible to the human eye under white light and become apparent only under light of specified wavelength(s) such as UV light...(C. 8, line 51 - C. 9, line 25). Appellants own specification discloses, "The visible marks and the non-visible marks indicate postage evidence for the mail piece (pg. 4)", just as Leon discloses elements (postage amount, etc.) can be printed using various types of ink. Therefore, Leon discloses processing visible and invisible ink to print elements, e.g., postage amount, graphics, time and date, and other pertinent information.

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Furthermore, Appellant argues that Leon fails to disclose, "generating postage information." However, Examiner notes that Leon discloses the computer receives information from the readers and provides a status signal that indicates whether the postage label is authentic (C. 3, lines 4-8). Appellant's own specification defines postage information may include a postage amount, a date, an origination address, a destination address, **security information** (status signal), or **some other information for the mail piece**. Thus, Leon also discloses generating security information, i.e. generating postage information.

### Second Issue

Appellant argues that Leon fails to disclose a handling system configured to process the visible mark information and the non-visible mark information..., because the limitations are structural limitation and should be interpreted as a structural limitation. Examiner agrees with Appellant that current invention's system should be interpreted as structural limitations. However, Examiner notes that the scope of the Appellant's invention encompasses the system taught by the Leon reference. Therefore, the system of Leon teaches the method of the current invention as stated above, and further teaches the structural limitations of the Appellant's invention (see Figures 1-5).

### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.



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Respectfully submitted,

Fadey S. Jabr

/Fadey S Jabr/

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